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PART - VII

GOVERNMENT OF MEGHALAYA ORDERS BY THE GOVERNOR

NOTIFICATIONS

The 14th July, 2006.

No.LL(B.)9/2006/105.—The following Acts passed by the Parliament and assent by the President of India and Published in the Gazette of India Extra Ordinary Part II, Section 1 on the date indicated below is hereby republished for general information.

Sl. No.	Name of Act	Act No. and Year	Date of Publication in the Gazette of India
1.	The Contempt of Courts (Amendment) Act, 2006.	Act No. 6 of 2006	20. 3. 2006
2.	The Company Secretaries (Amendment) Act, 2006.	Act No. 8 of 2006	20. 3. 2006
3.	The Khadi and Village Industries Commission (Amendment) Act, 2006.	Act No. 10 of 2006	23. 3. 2006
4.	The National Commission for Minority Educational Institutions (Amendment) Act, 2006.	Act No. 18 of 2006	29. 3. 2006

A. K. SANGMA,
Under Secretary to the Govt. of Meghalaya,
Law (B) Department.

THE CONTEMPT OF COURTS (AMENDMENT) ACT, 2006

AN

ACT,

Further to amend the Contempt of Courts Acts, 1971.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :—

1. This Act may be called the Contempt of Courts (Amendment) Act, 2006.

Short title.

70 of 1971.

2. In the Contempt of Courts Act, 1971, for Section 13, the following section shall be substituted namely :—

Substitution
of new section for
Section 13.

“13. Notwithstanding anything contained in any law for the time being in force, —

Contempts not
punishable in certain
cases.

(a) no court shall impose a sentence under this Act for a contempt of court unless it is satisfied that the contempt is of such a nature that it substantially interferes, or tends substantially to interfere with the due course of justice;

(b) the court may permit, in any proceeding for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is *bonafide*.”

THE COMPANY SECRETARIES (AMENDMENT) ACT, 2006

AN

ACT,

Further to amend the Company Secretaries Acts, 1980.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :—

1. (1) This Act may be called the Company Secretaries (Amendment) Act, 2006.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint :

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Amendment of Section 2	<p>2. In the Company Secretaries Act, 1980 (hereinafter referred to as the Principal Act), in sub-section (1) of Section 2, –</p> <p>(i) after clause (a), the following clauses shall be inserted, namely :–</p> <p>‘(aa) “Authority” means the Appellate Authority referred to in Section 22A;</p> <p>‘(aaa) “Board” means the Quality Review Board constituted under Section 29A;’;</p> <p>(ii) after clause (g), the following clause shall be inserted, namely :–</p> <p>‘(ga) “Notification” means a notification published in the Official Gazette;’;</p> <p>(iii) after clause (j), the following clauses shall be inserted, namely :–</p> <p>‘(ja) “Specified” means a specified by rules made by the Central Government under this Act;</p> <p>‘(jb) “Tribunal” means a Tribunal established under sub-section (1) of Section 10B;’.</p>	56 of 1980
Amendment of Section 4	<p>3. In Section 4 of the Principal Act, for sub-section (3), the following sub-section shall be substituted, namely : –</p> <p>“(3) Every person belonging to any of the classes mentioned in clauses (c), (d) and (e) of sub-section (1) shall have his name entered in the Register on application being made and granted in the prescribed manner and on payment of such fees, as may be determined, by notification, by the Council, which shall not exceed rupees three thousand :</p> <p>Provided that the Council may with the prior approval of the Central Government, determine the fee exceeding rupees three thousand, which shall not in any case exceed rupees six thousand;”.</p>	
Amendment of Section 5	<p>4. In Section 5 of the Principal Act, for sub-section (3), the following sub-section shall be substituted, namely : –</p> <p>“(3) A person being an Associate who has been in continuous practice in India as a Company Secretary for at least five years and a person who has been an Associate for a continuous period of not less than five years and who possesses such qualifications or practical experience as the Council may prescribe with a view to ensuring that he has experience equivalent to the experience normally acquired as a result of continuous practice for a period of five years as a Company Secretary shall, on payment of such fees, as may be determined, by notification, by the Council, which shall not exceed rupees five thousand, and on application made and granted in the prescribed manner, be entered in the Register as a Fellow :</p> <p>Provided that the Council may with the prior approval of the Central Government, determine the fee exceeding rupees five thousand, which shall not in any case exceed rupees ten thousand;”.</p> <p><i>Explanation I.</i> – For the purposes of this sub-section, a person shall be deemed to have practised in India for any period for which he has held a certificate of practice under Section 6, notwithstanding that he did not actually practise during that period.</p>	

Explanation II. – In computing the continuous period during which a person has been an Associate of the Institute, there shall be included any continuous period during which the person has been an Associate of the dissolved company immediately before he became an Associate of the Institute.”.

5. In Section 6 of the Principal Act, : –

Amendment of
Section 6

(i) for sub-section (2), the following sub-section shall be substituted, namely :–

“(2) A member who desires to be entitled to practise shall make an application in such form and pay such annual fee, for his certificate as may be determined by notification, by the Council, which shall not exceed rupees three thousand, and such fee shall be payable on or before the 1st day of April, in each year :

Provided that the Council may with the prior approval of the Central Government, determine the fee exceeding rupees three thousand, which shall not in any case exceed rupees six thousand.”;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:–

“(3) The certificate of practice obtained under sub-section (1) may be cancelled by the Council under such circumstances as may be prescribed.”.

6. In Section 9 of the Principal Act, : –

Amendment of
Section 9

(i) for sub-section (2), the following sub-section shall be substituted, namely :–

“(2) The Council shall be composed of the following persons, namely : –

(a) not more than fifteen persons elected by the members of the Institute, from amongst the Fellows of the Institute chosen in such manner and from such regional constituencies as may be specified:

Provided that the Fellow of the Institute, who has been found guilty of any professional or other misconduct and whose name is removed from the Register or has been awarded penalty of fine, shall not be eligible to contest the election, –

(i) in case of misconduct falling under the First Schedule of this Act, for a period of three years;

(ii) in case of misconduct falling under the Second Schedule of this Act, for a period of six years, from the completion of the period of removal of name from the Register or payment of fine, as the case may be;

(b) not more than five persons nominated in the specified manner by the Central Government.”;

(ii) after sub-section (2), the following sub-section shall be inserted, namely :–

“(3) No person holding a post under the Central Government or a State Government shall be eligible for election to the Council under Clause (a) of sub-section (2).

(4) No person who has been auditor of the Institute shall be eligible for election to the Council under clause (a) of sub-section (2) for a period of three years after he ceases to be an auditor;”.

Substitution of new section for Section 10.

7. For Section 10 of the Principal Act, the following section shall be substituted, namely :—

Re-election or re-nomination to Council.

“10. A member of the Council, elected or nominated under sub-section (2) of Section 9, shall be eligible for re-election or, as the case may be, re-nomination :

Provided that no member shall hold the office for more than two consecutive terms:

Provided further that a member of the Council, who is or has been elected as President under sub-section (1) of Section 12, shall not be eligible for election or nomination as a member of the Council;”.

Insertion of new Sections 10A and 10B.

8. After Section 10 of the Principal Act, the following section shall be inserted, namely : —

Settlement of disputes regarding election.

“10 A. In case of any dispute regarding any election under clause (a) of sub-section (2) of Section 9, the aggrieved person may make an application within thirty days from the date of declaration of the result of election to the Secretary of the Institute, who shall forward the same to the Central Government.

Establishment of Tribunal.

“10 B. (1) On receipt of any application under Section 10A, the Central Government shall, by notification, establish a Tribunal consisting of a Presiding Officer and two other Members to decide such dispute and the decision of such Tribunal shall be final.

(2) A person shall not be qualified for appointment, —

(a) as a Presiding Officer of the Tribunal unless he has been a member of the Indian Legal Service and has held a post in Grade I of the service for at least three years;

(b) as a Member unless he has been a member of the Council for at least one full term and who is not a sitting member of the Council or who has not been a candidate in the election under dispute; or

(c) as a Member unless he holds the post of a Joint Secretary to the Government of India or any other post under the Central Government carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India.

(3) The terms and conditions of service of the Presiding Officer and Members of the Tribunal, their place of meetings and allowances shall be such as may be specified.

(4) The expenses of the Tribunal shall be borne by the Council.”.

9. In Section 12 of the Principal Act, –Amendment of
Section 12.

(i) in sub-section (2), for the words “Chief Executive Authority”, the word, “Head” shall be substituted;

(ii) in sub-section (3), after the words “he shall be eligible for re-election”, the words, brackets and figure “under sub-section (1)” shall be inserted;

(iii) for sub-section (4), the following sub-section shall be substituted, namely :–

“(4) On the expiration of the duration of the Council, or of the term of office of the President and the Vice-President thereof, the President and the Vice-President shall continue to hold office until such time as a new President and the Vice-President is elected and takes over charge of their duties;”.

10. In Section 13 of the Principal Act, –Amendment of
Section 13.

(i) in sub-section (2), after the words “meetings of the Council”, the words, “or he has been found guilty of any professional or other misconduct and awarded penalty of fine, ” shall be inserted;

(ii) in the proviso to sub-section (3), for the words “six months”, the words, “one year” shall be substituted.

11. In Section 14 of the Principal Act, in sub-section (1), for the words “three years”, the words “four years” shall be substituted.Amendment of
Section 14.**12. For Section 15 of the Principal Act, the following Section shall be substituted, namely :–**Substitution of new
section for Section
15.

“15. (1) The Institute shall function under the overall control, guidance and supervision of the Council and the duty of carrying out the provisions of this Act shall be vested in the Council.

Function of Council.

(2) In particular, and without prejudice to the generality of the foregoing powers, the duties of the Council shall include –

(a) to approve academic courses and their contents;

(b) the prescribing of fees for the examination of candidates for enrolment;

(c) the prescribing of qualifications for entry in the Register;

(d) the recognition of foreign qualifications and training for purposes of enrolment;

(e) the prescribing of guidelines for granting or refusal of certificates of practice under this Act;

(f) the levy of fees from members, examinees and other persons;

(g) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;

(h) the carrying out, by granting financial assistance to persons other than members of the Council or in any other manner, of research in such matters of interest to Company Secretaries as may be prescribed;

(i) to enable functioning of the Director (Discipline), the Board of Discipline, the Disciplinary Committee and the Appellate Authority constituted under the provisions of this Act;

(j) to enable functioning of the Quality Review Board;

(k) consideration of the recommendations of the Quality Review Board made under clause (a) of Section 29 B and details of action taken thereon in its annual report; and

(l) to ensure the functioning of the Institute in accordance with the provisions of this Act and in performance of other statutory duties as may be entrusted to the Institute from time to time;”.

Insertion of new
Sections 15A and
15B.

13. After Section 15 of the Principal Act, the following Section shall be inserted, namely :—.

Functions of
Institute

“15A. The functions of the Institute shall include –

(a) the examination of candidates for enrolment;

(b) the regulation of training of students;

(c) the maintenance and publication of a Register of persons qualified to practice as Company Secretaries;

(d) collection of fees from members, examinees and other persons;

(e) subject to the orders of the appropriate authorities under this Act, the removal of names from the Register and the restoration to the Register of names which have been removed;

(f) the maintenance of a library and publication of books and periodicals relating to management of companies and allied subjects;

(g) the conduct of elections to the Council of the Institute;
and

(h) the granting or refusal of certificates of practice as per guidelines issued by the Council;

Imparting education
by Universities and
other bodies.

“15B. (1) Subject to the provisions of this Act, any University established by law or any body affiliated to the Institute, may impart education on the subjects covered by the academic courses of the Institute.

(2) The Universities or bodies referred to in sub-section (1) shall, while awarding degree, diploma or certificate or bestowing any designation, ensure that the award or designation do not resemble or is not identical to one awarded by the Institute.

(3) Nothing contained in this section shall enable a University or a body to adopt a name or nomenclature which is in any way similar to that of the Institute.”.

14. For Section 16 of the Principal Act, the following section shall be substituted, namely :—

Substitution of new section for Section 16.

“16. (1) For the efficient performance of its duties, the Council shall—

Officers and employees, salary, allowances, etc.

(a) appoint a Secretary of the Council to perform such duties as may be prescribed;

(b) appoint a Director (Discipline) to perform such functions as assigned to him under this Act and the rules and regulations framed thereunder;

(c) designate an officer of the Council or the Institute to carry out the administrative functions of the Institute as its chief executive.

(2) The Council may also —

(a) appoint such other officers and employees to the Council and the Institute as it considers necessary;

(b) require and take from the Secretary or from any other officer or employee of the Council and the Institute such security for the due performance of his duties, as the Council considers necessary;

(c) prescribe the salaries, fees, allowances of the officers and employees of the Council and the Institute and their terms and conditions of service;

(d) with the previous sanction of the Central Government, fix the allowances of the President, Vice-President and other members of the Council and members of its Committees;

(3) The Secretary of the Council shall be entitled to participate in the meetings of the Council but shall not be entitled to vote thereat.”.

15. In Section 17 of the Principal Act, —

Amendment of Section 17.

(a) in sub-section (1), for clause (b), the following clause shall be substituted, namely :—

“(b) a Finance Committee; and”;

(b) for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) Each of the Standing Committees shall consist of the President and the Vice-President *ex-officio*, and minimum of three and maximum of five members to be elected by the Council from amongst its members.”;

(c) sub-sections (4) and (5) shall be omitted;

(d) in sub-section (6), for the words “two-thirds of the total membership of the Committee”, the words “one-third of the total membership of the Committee” shall be substituted.

16. In Section 18 of the Principal Act, —

Amendment of Section 18.

(i) for sub-section (3), (4) and (5), the following sub-sections shall be substituted, namely :—

“(3) The Council shall keep proper accounts of the fund distinguishing capital from revenue in the manner prescribed.

(4) The Council shall prepare in the manner prescribed and approve, prior to the start of the financial year, an annual financial statement (the budget) indicating all its anticipated revenues as well as all proposed expenditures for the forthcoming year.

(5) The Annual accounts of the Council shall be prepared in such manner as may be prescribed and be subject to audit by a Chartered Account in practice to be appointed annually by the Council:

Provided that no member of the Council or a person who has been a member of the Council during the last four years or a person who is in partnership with such member shall be eligible for appointment as an auditor under this sub-section:

Provided further that, in the event it is brought to the notice of the Council that the accounts of the Council do not represent a true and fair view of its finances, then, the Council may itself cause a special audit to be conducted:

Provided also that if such information, that the accounts of the Council do not represent a true and fair view of its finances, is sent to the Council by the Central Government, then, the Council may, wherever appropriate cause a special audit or take such other action as it considers necessary and shall furnish an action taken report on it to the Central Government.”;

(ii) after sub-section (5), the following sub-section shall be inserted, namely :—

“(5A) As soon as may be practicable at the end of each year, the Council shall circulate the audited accounts to its members at least fifteen days in advance and consider and approve these accounts in a special meeting convened for the purpose.

“(5B) the Council shall cause to be published in the Gazette of India not later than the 30th day of September of the year next following, a copy of the audited accounts and the Report of the Council for that year duly approved by the Council and copies of the said accounts and Report shall be forwarded to the Central Government and to all the members of the Institute.”.

Amendment of
Section 19.

17. In Section 19 of the Principal Act, —.

(i) in sub-section (3), the words “on payment of such amount as may be prescribed” shall be inserted at the end;

(ii) for sub-section (4), the following sub-section shall be substituted, namely :—

“(4) Every member of the Institute shall, on his name being entered in the Register, pay such annual membership fee as may be determined, by notification, by the Council, which shall not exceed rupees five thousand:

Provided that the Council may with prior approval of the Central Government, determine the fee exceeding rupees five thousand which shall not in any case exceed rupees ten thousand.”.

18. In Section 20 of the Principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

Amendment of
Section **20**.

“(3) If the name of any member has been removed from the Register under clause (c) of sub-section (1), on receipt of an application, his name may be entered again in the Register on payment of the arrears of annual fee and entrance fee along with such additional fee, as may be determined, by notification, by the Council, which shall not exceed rupees two thousand :

Provided that the Council may with prior approval of the Central Government, determine the fee exceeding rupees two thousand, which shall not in any case exceed rupees four thousand.”.

19. For Section 21 of the Principal Act, the following section shall be substituted, namely :—

Substitution of new
section for Section
21.

“21. (1) The Council shall, by notification, establish a Disciplinary Directorate headed by an officer of the Institute designated as Director (Discipline) and such other employees for making investigations in respect of any information or complaint received by it.

Disciplinary
Directorate.

(2) On receipt of any information or complaint along with the prescribed fee, the Director (Discipline) shall arrive at a *prima facie* opinion on the occurrence of the alleged misconduct.

(3) Where the Director (Discipline) is of the opinion that a member is guilty of any professional or other misconduct mentioned in the First Schedule, he shall place the matter before the Board of Discipline and where the Director (Discipline) is of the opinion that a member is guilty of any professional or other misconduct mentioned in the Second Schedule or in both the Schedules, he shall place the matter before the Disciplinary Committee.

(4) In order to make investigations under the provisions of this Act, the Disciplinary Directorate shall follow such procedure as may be specified.

(5) Where a complainant withdraws the complaint, the Director (Discipline) shall place such withdrawal before the Board of Discipline or as the case may be, the Disciplinary Committee, and the said Board or Committee may, if it is of the view that the circumstances so warrant, permit the withdrawal at any stage;”.

20. After Section 21 of the Principal Act, the following section shall be inserted, namely :—

Insertion of new
Sections **21A**, **21B**,
21C and **21D**.

‘21A. (1) The Council shall, constitute a Board of Discipline consisting of —

Board of Discipline.

(a) a person with experience in law and having knowledge of the disciplinary matters and the profession, to be its presiding officer;

(b) two members one of whom shall be a member of the Council elected by the Council and the other member shall be the person designated under clause (c) of sub-section (1) of section 16;

(c) the Director (Discipline) shall function as the Secretary of the Board.

(2) The Board of Discipline shall follow summary disposal procedure in dealing with all the cases before it.

(3) Where the Board of Discipline is of the opinion that a member is guilty of a professional or other misconduct mentioned in the First Schedule, it shall afford to the member an opportunity of being heard before making any order against him and may thereafter take any one or more of the following actions, namely :—

(a) reprimand the member;

(b) remove the name of the member from the Register up to a period of three months;

(c) impose such fine as it may think fit which may extend to rupees one lakh.

(4) The Director (Discipline) shall submit before the Board of Discipline all information and complaints, where he is of the opinion that there is no *prima facie* case and the Board of Discipline may, if it agrees with the opinion of the Director (Discipline), close the matter or in case of disagreement, may advise the Director (Discipline) to further investigate the matter.

Disciplinary
Committee.

21B . (1) The Council shall, constitute a Disciplinary Committee consisting of the President or the Vice-President of the Council as the Presiding Officer and two members to be elected from amongst the members of the Council and two members to be nominated by the Central Government from amongst the persons of eminence having experience in the field of law, economics, business, finance or accountancy:

Provided that the Council may constitute more Disciplinary Committees as and when it considers necessary.

(2) The Disciplinary Committee, while considering the cases placed before it, shall follow such procedure as may be specified.

(3) Where the Disciplinary Committee is of the opinion that a member is guilty of a professional or other misconduct mentioned in the Second Schedule or both the First Schedule and the Second Schedule, it shall afford to the member an opportunity of being heard before making any order against him and may thereafter take any one or more of the following actions, namely:—

(a) reprimand the member;

(b) remove the name of the member from the Register permanently or for such period, as it thinks fit;

(c) impose such fine as it may think fit, which may extend to rupees five lakhs.

(4) The allowances payable to the members nominated by the Central Government shall be such as may be specified.

Authority
Disciplinary Committee,
Board of Discipline
and Director
(Discipline) to have
powers of civil court.

21C . For the purposes of an inquiry under the provisions of this Act, the Authority, the Disciplinary Committee, Board of Discipline and the Director (Discipline) shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) the discovery and production of any document; and

(c) receiving evidence on affidavit.

Explanation.—For the purposes of Sections 21, 21A, 21B, 21C and 22, “Member of the Institute” includes a person who was a member of the Institute on the date of the alleged misconduct although he has ceased to be a member of the Institute at the time of the inquiry.

21D. All complaints pending before the Council or any inquiry initiated by the Disciplinary Committee or any reference or appeal made to a High Court prior to the commencement of the Company Secretaries (Amendment) Act, 2006 shall continue to be governed by the provisions of this Act, as if this Act had not been amended by the Company Secretaries (Amendment) Act, 2006.’

Transitional provisions.

21. For Section 22 of the Principal Act, the following section shall be substituted, namely :—

Substitution of new section for Section 22.

‘22. For the purposes of this Act, the expression “professional or other misconduct” shall be deemed to include any act or omission provided in any of the Schedules, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Director (Discipline) under sub-section (1) of Section 21 to inquire into the conduct of any member of the Institute under any other circumstances.’.

Professional or other misconduct defined.

22. After Section 22 of the Principal Act, the following sections shall be inserted, namely :—

Insertion of new Sections 22A, 22B, 22C, 22D and 22E.

38 of 1949.

‘22 A. The Appellate Authority constituted under sub-section (1) of Section 22A of the Chartered Accountants Act, 1949, shall be deemed to be the Appellate Authority for the purposes of this Act subject to the modification that for clause (b) of said sub-section (1), the following clause had been substituted, namely :—

Constitution of Appellate Authority.

“(b) The Central Government shall, by notification appoint two part-time members from amongst the persons who have been members of the Council of the Institute of Company Secretaries of India for at least one full term and who is not a sitting member of the Council;”.

22B. A person appointed as a member shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

Term of office of members of Authority.

22C. The provisions of Section 22C, section 22D and Section 22F of the Chartered Accountants Act, 1949 shall apply to the Authority in relation to allowances and terms and conditions of service of its Chairperson and members, and in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Chartered Accountants Act, 1949.

Procedure etc., of Authority.

38 of 1949.

Officers and other staff of Authority.

22D. (1) The Council shall make available to the Authority such officers and other staff members as may be necessary for the efficient performance of the functions of the Authority.

(2) The salaries and allowances and conditions of service of the officers and other staff members of the Authority shall be such as may be prescribed.

Appeal to Authority.

22E. (1) Any member of the Institute aggrieved by any order of the Board of Discipline or the Disciplinary Committee imposing on him any of the penalties referred to in sub-section (3) of Section 21A and sub-section (3) of Section 21B, may within ninety days from the date on which the order is communicated to him, prefer an appeal to the Authority:

Provided that the Director (Discipline) may also appeal against the decision of the Board of Discipline or the Disciplinary Committee to the Authority if so authorised by the Council, within ninety days:

Provided further that the Authority may entertain any such appeal after the expiry of the said period of ninety days, if it is satisfied that there was sufficient cause for not filing the appeal in time.

(2) The Authority may, after calling for the records of any case, revise any order made by the Board of Discipline or the Disciplinary Committee under sub-section (3) of section 21A and sub-section (3) of Section 21B and may –

(a) confirm, modify or set aside the order;

(b) impose any penalty or set aside, reduce or enhance the penalty imposed by the order;

(c) remit the case to the Board of Discipline or Disciplinary Committee for such further enquiry as the Authority considers proper in the circumstances of the case; or

(d) pass such other order as the Authority thinks fit:

Provided that the Authority shall give an opportunity of being heard to the parties concerned before passing any order.’.

Amendment of Section 25.

23. In Section 25 of the Principal Act, sub-section (3) shall be omitted

Amendment of Section 27.

24. In Section 27 of the Principal Act, for sub-section (2), the following sub-section shall be substituted, namely :—

“(2) Any person who contravenes the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable on first conviction with a fine not less than five thousand rupees but which may extend to one lakh rupees, and in the event of a second or subsequent conviction with imprisonment for a term which may extend to one year or with a fine not less than ten thousand rupees but which may extend to two lakhs rupees or with both.”.

25. After Chapter VII of the Principal Act, the following Chapter shall be inserted, namely :—

Insertion of new Chapter VIIA.

“CHAPTER VIIA

Quality Review Board

29A. (1) The Central Government shall, by notification, constitute a Quality Review Board consisting of a Chairperson and four other members.

Establishment of Quality Review Board.

(2) The Chairperson and members of the Board shall be appointed from amongst the persons of eminence having experience in the field of law, economics, business, finance or accountancy.

(3) Two members of the Board shall be nominated by the Council and other two members shall be nominated by the Central Government.

29B. The Board shall perform the following functions, namely:—

Functions of Board.

(a) to make recommendations to the Council with regard to the quality of services provided by the members of the Institute;

(b) to review the quality of services provided by the members of the Institute including secretarial services; and

(c) to guide the members of the Institute to improve the quality of services and adherence to the various statutory and other regulatory requirements.

29C. The Board shall meet at such time and place and follow in its meeting such procedure as may be specified.

Procedure of Board.

29D. (1) The terms and conditions of service of the Chairperson and the members of the Board, and their allowances shall be such as may be specified.

Terms and conditions of service of Chairperson and members of Board and its expenditure.

(2) The expenditure of the Board shall be borne by the Council.”.

26. Section 30 of the Principal Act, shall be omitted.

Omission of Section 30.

27. For Section 36 of the Principal Act, the following section shall be substituted, namely :—

Substitution of new section for Section 36.

“36 No suit, prosecution or other legal proceeding shall lie against the Central Government or the Council or the Authority or the Disciplinary Committee or the Tribunal or the Board or the Board of Discipline or the Disciplinary Directorate or any officer of that Government, Council, Authority, Disciplinary Committee, Tribunal, Board, Board of Discipline or the Disciplinary Directorate, for anything which is in good faith done or intended to be done under this Act or any rule, regulation, notification, direction or order made thereunder.”.

Protection of action taken in good faith.

28. After Section 36 of the Principal Act, the following section shall be inserted, namely :—

Insertion of new Section 36A.

“36A. The Chairperson, Presiding Officer, Members and other Officers and Employees of the Authority, Disciplinary Committee, Tribunal, Board, Board of Discipline or the Disciplinary Directorate shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.”

Members, etc., to be public servants.

Insertion of new
Section **38A**.

29. After Section 38 of the Principal Act, the following section shall be inserted, namely :—

Power of Central
Government to
make rules.

“38A. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

(a) the manner of election and nomination in respect of members to the Council under sub-section (2) of Section 9;

(b) the terms and conditions of service of the Presiding Officer and Members of the Tribunal, place of meetings and allowances to be paid to them under sub-section (3) of Section 10B;

(c) the procedure of investigation under sub-section (4) of Section 21;

(d) the procedure while considering the cases by the Disciplinary Committee under sub-section (2) and fixation of allowances of the nominated members under sub-section (4) of Section 21B;

(e) the procedure to be followed by the Board in its meeting under Section 29C; and

(f) the terms and conditions of service of the Chairperson and members of the Board under sub-section (1) of Section 29D.”.

Amendment of
Section **39**.

30. in Section 39 of the Principal Act,—

(i) in sub-section (2),—

(a) in clause (a), for the word, brackets and figures “items (1), (3)”, the word, brackets and figure “item (2)” shall be substituted;

(b) in clause (d), the words, brackets and letter “clause (a) of” shall be omitted;

(c) clause (g), clause (l) and clause (q) shall be omitted;

(d) in clause (i), for the word, brackets and letter “clause (i)”, the word, brackets and letter “clause (g)” shall be substituted;

(e) in clause (j), for the word, brackets and letter “clause (j)”, the word, brackets and letter “clause (h)” shall be substituted;

(f) in clause (k), for the words, brackets, letter and figures “clause (k) of sub-section (2) of Section 15”, the words, brackets, letters and figure “clause (f) of Section 15A” shall be substituted;

(ii) sub-section (4) shall be omitted.

31. After Section 39 of the Principal Act, the following section shall be inserted, namely :—

Insertion of new Section 40.

“40. Every rule and every regulation made and every notification issued under this Act shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation or notification, or both Houses agree that the rule, regulation or notification should not be made, or issued, the rule, regulation or notification shall thereafter have effect only in such modified form or be no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation or notification.”.

Rules, regulations and notifications to be laid before Parliament.

32. For the First Schedule and the Second Schedule to the Principal Act, the following Schedules shall be substituted, namely :—

Substitution of new Schedules for First Schedule and Second Schedule.

‘THE FIRST SCHEDULE

[See sections 21 (3), 21A (3) and 22]

PART I

Professional misconduct in relation to company secretaries in practice

A Company Secretary in practice shall be deemed to be guilty of professional misconduct, if he—

(1) allows any person to practice in his name as a Company Secretary unless such person is also a Company Secretary in practice and is in partnership with or employed by him;

(2) pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner, or a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India.

Explanation.—In this item, “partner” includes a person residing outside India with whom a Company Secretary in practice has entered into partnership which is not in contravention of item (4) of this Part;

(3) accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of the Institute:

Provided that nothing herein contained shall be construed as prohibiting a member from entering into profit sharing or other similar

arrangements, including receiving any share commission or brokerage in the fees, with a member of such professional body or other person having qualifications, as is referred to in item (2) of this part;

(4) enters into partnership, in or outside India, with any person other than a Company Secretary in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (e) of sub-section (1) of Section 4 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships;

(5) secures, either through the services of a person who is not an employee of such company secretary or who is not his partner or by means which are not open to a Company Secretary, any professional business:

Provided that nothing herein contained shall be construed as prohibiting any arrangement permitted in terms of items (2), (3) and (4) of this Part;

(6) solicits clients or professional work, either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means:

Provided that nothing herein contained shall be construed as preventing or prohibiting—

(i) any company secretary from applying or requesting for or inviting or securing professional work from another company secretary in practice; or

(ii) a member from responding to tenders or inquiries issued by various users of professional services or organisations from time to time and securing professional work as a consequence;

(7) advertise his professional attainments or services, or uses any designation or expressions other than Company Secretary on professional documents, visiting cards, letterheads or sign boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute of Company Secretaries of India or of any other institution that has been recognised by the Central Government or may be recognised by the Council:

Provided that a member in practice may advertise through a write up setting out the services provided by him or his firm and particulars of his firm subject to such guidelines as may be issued by the Council;

(8) accepts a position as a Company Secretary in practice previously held by another Company Secretary in practice without first communicating with him in writing;

(9) charges or offers to charge, accepts or offers to accept, in respect of any professional employment, fees which are based on a percentage of profits or which are contingent upon the findings, or results of such employment, except as permitted under any regulation made under this Act;

(10) engages in any business or occupation other than the profession of Company Secretary unless permitted by the Council so to engage:

1 of 1956. Provided that nothing contained herein shall disentitle a Company Secretary from being a Director of a Company except as provided in the Companies Act, 1956;

(11) allows a person not being a member of the Institute in practice, or a member not being his partner to sign on his behalf or on behalf of his firm, anything which he is required to certify as a Company Secretary, or any other statements relating thereto.

PART II

Professional misconduct in relation to members of the Institute in service

A member of the Institute (other than a member in practice) shall be deemed to be guilty of professional misconduct, if he, being an employee of any company, firm or person—

(1) pays or allows or agrees to pay, directly or indirectly, to any person any share in the emoluments of the employment undertaken by him;

(2) accepts or agrees to accept any part of fees, profits or gains from a lawyer, a Company Secretary or broker engaged by such company, firm or person or agent or customer of such company, firm or person by way of commission or gratification.

PART III

Professional misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he—

(1) not being a Fellow of the Institute, acts as a Fellow of the Institute;

(2) does not supply the information called for, or does not comply with the requirements asked for, by the Institute, Council or any of its Committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority;

(3) while inviting professional work from another Company Secretary or while responding to tenders or enquiries or while advertising through a write up, or anything as provided for in items (6) and (7) of Part I of this Schedule, gives information knowing it to be false.

PART IV

Other misconduct in relation to members of the Institute generally.

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if —

(1) he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months;

(2) in the opinion of the council, he brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

THE SECOND SCHEDULE

[See sections 21 (3), 21B (3) and 22]

PART I

Professional misconduct in relation to company secretaries in practice

A Company Secretary in practice shall be deemed to be guilty of professional misconduct, if he—

(1) discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of his client, or otherwise than as required by any law for the time being in force;

(2) certifies or submits in his name, or in the name of his firm, a report of an examination of the matters relating to company secretarial practice and related statements unless the examination of such statements has been made by him or by a partner or an employee in his firm or by another Company Secretary in practice;

(3) permits his name or the name of his firm to be used in connection with any report or statement contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast;

(4) expresses his opinion on any report or statement given to any business or enterprise in which he, his firm, or a partner in his firm has a substantial interest;

(5) fails to disclose a material fact known to him in his report or statement but the disclosure of which is necessary in making such report or statement, where he is concerned with such report or statement in a professional capacity;

(6) fails to report a material mis-statement known to him and with which he is concerned in a professional capacity;

(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;

(8) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion;

(9) fails to invite attention to any material departure from the generally accepted procedure relating to the secretarial practice;

(10) fails to keep moneys of his client other than fees or remuneration or money meant to be expended in a separate banking account or to use such moneys for purposes for which they are intended within a reasonable time.

PART II

Professional misconduct in relation to members of the Institute generally.

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he—

(1) contravenes any of the provisions of this Act or the Regulations made thereunder or any guidelines issued by the Council;

(2) being an employee of any company, firm or person, discloses confidential information acquired in the course of his employment, excepts as and when required by any law for the time being in force or except as permitted by the employer;

(3) includes in any information, statement, return or form to be submitted to the Institute, Council or any of its Committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing them to be false;

(4) defalcates or embezzles moneys received in his professional capacity.

PART III

Other misconduct in relation to members of the Institute generally.

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term exceeding six months.’.

**THE KHADI AND VILLAGE INDUSTRIES COMMISSION (AMENDMENT)
ACT, 2006**

(AS PASSED BY THE HOUSE OF PARLIAMENT)

AN

ACT

Further to amend the Khadi and Village Industries Commission Act, 1956.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :—

1. (1) This Act may be called the Khadi and Village Industries Commission (Amendment) Act, 2006.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, specify in this behalf.

61 of 1956.

2. In Section 2 of the Khadi and Village Industries Commission Act, 1956 (hereinafter referred to as the principal Act), —

Amendment of
Section 2.

(i) in clause (ff), for the words “ten thousand”, the words “twenty thousand” shall be substituted;

(ii) in clause (h), in sub-clause (i), —

(A) for the words “fifteen thousand rupees”, the words “one lakh rupees” shall be substituted;

(B) after the proviso, the following proviso shall be inserted, namely : —

‘Provided further that in the case of any industry located in a hilly area, the provisions of this sub-clause shall have effect as if for the words “one lakh rupees”, the words “one lakh and fifty thousand rupees” had been substituted.’

3. In Section 4 of the Principal Act, —

Amendment of
Section 4.

(a) after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) Save as otherwise provided under this Act and the rules made thereunder, the exercise of all powers and discharge of all functions under this Act, including general superintendence, direction and management of day-to-day affairs of the Commission, shall vest in the Commission.”;

(b) in sub-section (2), —

(i) in clause (a), for the words “having specialised knowledge and experience of Khadi and Village Industries”, the words “having specialised knowledge and not less than ten years of experience of khadi or village industries” shall be substituted;

(ii) for clause (b), the following clause shall be substituted, namely :—

(b) four non-official members of whom each members shall be from the following disciplines, namely —

(i) one member having expert knowledge and experience in Science and Technology;

(ii) one member having expert knowledge and experience in Marketing;

(iii) one member having expert knowledge and experience in Rural Development; and

(iv) one member having expert knowledge and experience in Technical Education and Training;

(iii) after clause (b), the following clause shall be inserted, namely:—

“(ba) the Chairman of the State Bank of India constituted under sub-section (1) of Section 3 of the State Bank of India Act, 1955 or an officer not below the rank of the Deputy Managing Director as may be nominated by the Chairman of the State Bank of India—*ex-officio*;”;

23 of 1955.

(iv) for clauses (c) and (d), the following clauses shall be substituted, namely :—

“(c) a Chief Executive Officer, *ex-officio*; and

(d) a Financial Adviser, who shall also be the Chief Accounts Officer of the Commission, *ex-officio*.”;

(v) after clause (d), the proviso shall be omitted.

Amendment of
section 5.

4. In section 5 of the principal Act, —

(a) for sub-section (1), the following sub-sections shall be substituted, namely :—

“(1) Subject to the provisions contained in sub-section (1A) of section 4, the Chief Executive Officer, appointed under clause (c) of sub-section (2) of section 4, shall exercise such powers and discharge such functions in respect of general superintendence over the affairs of the Commission and its day-to-day management, as may be prescribed.

(1A) Without prejudice to the powers and functions referred to in sub-section (1), the Chief Executive Officer shall exercise such powers and discharge such functions under the general superintendence, direction and management of the Commission.”.

(b) in sub-section (2), for the words “shall be responsible”, the words “shall, in addition to exercise of the powers and discharge of the functions referred to in sub-section (1), be responsible” shall be substituted.

Amendment of
section 5A.

5. In section 5A of the principal Act, for the words, brackets, letter and figures “appointed under clause (c) of sub-section (2) of section 4 shall be in charge of all financial matters of the Commission including its budget,

accounts and audit”, the words, brackets, letter and figures “appointed under clause (d) of the sub-section (2) of Section 4 shall be in charge of such financial matters of the Commission including its budget, accounts and audit, as may be prescribed” shall be substituted.

6. Section 10 of the Principal Act, shall be numbered as sub-section (1) thereof and, –

Amendment of
Section 10.

(a) in sub-section (1) as so numbered, for the words “Khadi and Village Industries Board”, the words “National Khadi and Village Industries Board” shall be substituted;

(b) after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely :–

“(2) The Board shall, subject to the provisions of sub-section (3), meet at such times and places and observe such rules of procedure in regard to the transaction of business at its meetings including the quorum at meetings as may be prescribed.

(3) The Board shall meet at least twice in a year.”.

7. In section 12 of the Principal Act, in sub-section (3), for the words “votes of the members present”, the words and brackets “votes of the members (including *ex-officio* members) present” shall be substituted.

Amendment of
Section 12.

8. After Section 12 of the Principal Act, the following section shall be inserted, namely :–

Insertion of new
Section 12A.

“12A. (1) The Commission shall constitute for each of the six geographical zones, referred to in clause (a) of sub-section (2) of Section 4, a Zonal Committee, which shall consist of the following, namely :–

Zonal Committee.

(a) the non-official member representing the zone, referred to in clause (a) of sub-section (2) of Section 4, who shall be the Chairman of the Zonal Committee constituted for respective zones;

(b) one representative of each of the State Khadi and Village Industries Boards of the States or, as the case may be, the Government of each State in the zone, to be notified by the Central Government in consultation with the State Government concerned—member;

(c) the Zonal Deputy Chief Executive Officer of the Commission, who shall be the convener of the Zonal Committee—member;

(d) the State Directors in charge of the Commission’s Directorates for the States in the zone—member;

(e) a Zonal or Regional manager of one of the lead banks operating in the zone—member; and

(f) one representative of an institution of repute, working for at least ten years in the khadi or village industries sector and having a good record of performance, from each State in the zone, to be notified by the Central Government—member.

(2) The Zonal Committee shall meet at such times and places and shall, subject to the provisions of sub-section (3), observe such rules of

procedure in regard to the transaction of business at its meetings (including the quorum at the meetings) as may be provided by regulations made by the Commission under this Act;

Provided that the Committee shall meet at least once in every three months.

(3) The Chairman of the Zonal Committee or, in his absence, any member chosen by the members present from among themselves, shall preside at a meeting of the Committee.

(4) The Zonal Committee shall generally function as a forum for consultation and, accordingly, *inter alia*,—

(a) act as a conduct for the dissemination of information relating to the programmes and schemes of the Commission for the development of khadi and village industries in the zone;

(b) monitor, from time to time, the implementation of the programmes and schemes referred to in clause (a);

(c) provide feedback to the Commission on the problems and difficulties envisaged and suggestions made by banks, voluntary agencies, artisans and others engaged in the operation of programmes and schemes referred to in clause (a).”.

Amendment of
Section 13.

9. In Section 13 of the Principal Act, in sub-section (1), for the words “for a term of five years”, the words “at the pleasure of the Central Government which shall not exceed continuous period of five years” shall be substituted;

Amendment of
Section 15.

10. In Section 15 of the Principal Act,—

(a) in sub-section (1) for the words “plan, promote, organise”, the words “plan, promote, facilitate, organise” shall be substituted;

(b) in sub-section (2),—

(i) in clause (a), for the words “plan and organise”, the words “plan and organise, directly or through specified agencies” shall be substituted;

(ii) in clause (b),—

(A) for the words “build up”, the words “builds up, directly or through specified agencies,” shall be substituted;

(B) for the words “supply them”, the words “supply them, or arrange supply of the raw materials and implements,” shall be substituted;

(iii) in clause (g), for the words “provide financial assistance”, the words “provide financial assistance, directly or through specified agencies,” shall be substituted;

(iv) in clause (h), for the words “undertake experiments”, the words “undertake, directly or through specified agencies, experiments,” shall be substituted;

(c) after sub-section (2), the following *Explanation* shall be inserted at the end, namely:—

‘Explanation.—For the purposes of clauses (a), (b), (g) and (h) of sub-section (2), the expression “specified agencies” means the agencies which the Central Government may, by notification in the Official Gazette, specify in this behalf.’

11. In Section 19A of the Principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

Amendment of
Section **19A**.

“Provided that the Chief Executive Officer and Financial Adviser shall be *ex-officio* members of the Standing Finance Committee in respect of each of the three separate funds referred to in sub-section (1) of section 18.”.

12. In Section 25 of the Principal Act, after sub-section (2), the following sub-section shall be inserted at the end, namely:—

Amendment of
Section **25**.

“(3) Any time after the issue of the notification under sub-section (1), the Central Government may re-establish the Commission in accordance with the provisions of Section 4 and on and from the date of the re-establishment of the Commission, the properties and funds which had previously vested in the Central Government under clause (a) of sub-section (2) shall stand vested in the Commission so re-established.”.

13. In Section 26 of the Principal Act, in sub-section (2), after clause (a), the following clauses shall be inserted, namely :—

Amendment of
Section **26**.

“(aa) the powers to be exercised and functions to be discharged by the Chief Executive Officer under sub-section (1) of Section 5;

(ab) the financial matters in respect of which the Financial Adviser shall be in charge under Section 5A;

(ac) the transaction of business at the meetings of the Board under sub-section (2) of Section 10;”.

14. In Section 27 of the Principal Act, in sub-section (2), —

Amendment of
Section **27**.

(i) after clause (b), the following clause shall be inserted, namely:—

“(ba) the transaction of business at the meetings of the Zonal Committee under sub-section (2) of Section 12A;”;

(ii) in clause (c), the words “the Chief Executive Officer or” shall be omitted.

**THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL
INSTITUTIONS (AMENDMENT) ACT, 2006**

AN

ACT

*to amend the National Commission for Minority Educational Institutions
Act, 2004.*

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :—

1. (1) This Act may be called the National Commission for Minority Educational Institutions (Amendment) Act, 2006.

Short title and
commencement.

(2) It shall be deemed to have come into force on 23rd day of January, 2006.

2 of 2005.

2. In Section 2 of the National Commission for Minority Educational Institutions Act, 2004 (hereinafter referred to as the Principal Act), —

Amendment of
Section 2.

(i) in clause (a), the word “Scheduled” shall be omitted;

(ii) after clause (a), the following clause shall be inserted, namely :—

‘(aa) “appropriate Government” means,—

(i) in relation to an educational institution recognised for conducting its programme of studies under any Act of Parliament, the Central Government; and

(ii) in relation to any other educational institution recognised for conducting its programmes of studies under any State Act, a State Government in whose jurisdiction such institution is established;’;

(iii) after clause (c), the following clause shall be inserted, namely:—

“(ca) “Competent authority” means the authority appointed by the appropriate Government to grant no objection certificate for the establishment of any educational institution of their choice by the minorities;’;

(iv) after clause (d), the following clause shall be inserted, namely:—

‘(da) “educational rights of minorities” means the rights of minorities to establish and administer educational institutions of their choice;’;

(v) clause (j), shall be omitted.

Substitution of new
Chapter for
Chapter III.

3. For Chapter III of the principal Act, the following Chapter shall be substituted, namely:—

CHAPTER III

RIGHTS OF A MINORITY EDUCATIONAL INSTITUTION

Right to establish a
Minority Educational
Institution.

10. (1) Any person who desires to establish a Minority Educational Institution may apply to the Competent authority for the grant of no objection certificate for the said purpose.

(2) The Competent authority shall,—

(a) on perusal of documents, affidavits or other evidence, if any;
and

(b) after giving an opportunity of being heard to the applicant, decide every application filed under sub-section (1) as expeditiously as possible and grant or reject the application, as the case may be:

Provided that where an application is rejected, the Competent authority shall communicate the same to the applicant.

(3) Where within a period of ninety days from the receipt of the application under sub-section (1) for the grant of no objection certificate,—

(a) the Competent authority does not grant such certificate; or

(b) where an application has been rejected and the same has not been communicated to the person who has applied for the grant of such certificate, it shall be deemed that the Competent authority has granted a no objection certificate to the applicant.

(4) The applicant shall, on the grant of a no objection certificate or where the Competent authority has deemed to have granted the no objection certificate, be entitled to commence and proceed with the establishment of a Minority Educational Institution in accordance with the rules and regulations, as the case may be, laid down by or under any law for the time being in force.

Explanation.—For the purposes of this section,—

(a) “applicant” means any person who makes an application under Sub-Section (1) for establishment of a Minority Educational Institution;

(b) “no objection certificate” means a certificate stating therein, that the Competent authority has no objection for the establishment of a Minority Educational Institution.

Right of a Minority
Educational
Institution to seek
affiliation.

10A. (1) A Minority Educational Institution may seek affiliation to any University of its choice subject to such affiliation being permissible within the Act under which the said University is established.

(2) Any person who is authorised in this behalf by the Minority Educational Institution, may file an application for affiliation under sub-section (1) to a University in the manner prescribed by the Statute, Ordinance, rules or regulations, of the University:

Provided that such authorised person shall have the right to know the status of such application after the expiry of sixty days from the date of filing of such application.’

4. In Section 11 of the Principal Act, for clauses (b) and (c), the following clauses shall be substituted, namely:—

Amendment of
Section 11.

“(b) enquire, *suo motu*, or on a petition presented to it by any Minority Educational Institution, or any person on its behalf into complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice and any dispute relating to affiliation to a University and report its finding to the appropriate Government for its implementation;

(c) intervene in any proceeding involving any deprivation or violation of the educational rights of the minorities before a court with the leave of such court;

(d) review the safeguards provided by or under the Constitution, or any law for the time being in force, for the protection of educational rights of the minorities and recommend measures for their effective implementation;

(e) specify measures to promote and preserve the minority status and character of institutions of their choice established by minorities;

(f) decide all questions relating to the status of any institution as a Minority Educational Institution and declare its status as such;

(g) make recommendations to the appropriate Government for the effective, implementation of programmes and schemes relating to the Minority Educational Institutions; and

(h) do such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Commission.”.

5. In Section 12 of the Principal Act,—

Amendment of
Section 12.

(a) in sub-section (1), the word “Schedule” shall be omitted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of Section 193 and 228, and for the purposes of Section 196, of the Indian Penal Code and the Commission shall be deemed to be a civil court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.”.

45 of 1860.

2 of 1974.

6. After Section 12 of the Principal Act, the following sections shall be inserted, namely:—

Insertion of New
Sections 12A to
12F.

“12A. (1) Any person aggrieved by the order of refusal to grant no objection certificate under sub-section (2) of Section 10 by the Competent authority for establishing a Minority Educational Institution, may prefer an appeal against such order to the Commission.

Appeal against
orders of the
Competent
authority.

(2) An appeal under sub-section (1) shall be filed within thirty days from the date of the order referred to in sub-section (1) communicated to the applicant:

Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.

(4) The Commission, after hearing the parties, shall pass an order as soon as may be practicable, and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

(5) An order made by the Commission under sub-section (4) shall be executable by the Commission as a decree of a civil court and the provisions of the Code of Civil Procedure, 1908, so far as may be, shall apply as they apply in respect of a decree of a civil court.

5 of 1908.

Power of Commission to decide on the minority status of an educational institution.

12B. (1) Without prejudice to the provisions contained in the National Minority Commission Act, 1992, where an authority established by the Central Government or any State Government, as the case may be, for grant of minority status to any educational institution rejects the application for the grant of such status, the aggrieved person may appeal against such order of the authority to the Commission.

19 of 1992.

(2) An appeal under sub-section (1) shall be preferred within thirty days from the date of the order communicated to the applicant:

Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.

(4) On receipt of the appeal under sub-section (3), the Commission may, after giving the parties to the appeal an opportunity of being heard and in consultation with the State Government, decide on the minority status of the educational institution and shall proceed to give such directions as it may deem fit and, all such directions shall be binding on the parties.

Explanation.—For the purposes of this section and section 12C, “authority” means any authority or officer or commission which is established under any law for the time being in force or under any order of the appropriate Government, for the purpose of granting a certificate of minority status to an educational institution.

Power to cancel.

12C. The Commission may, after giving a reasonable opportunity of being heard to a Minority Educational Institution to which minority status has been granted by an authority or Commission, as the case may be, cancel such status under the following circumstances, namely:—

(a) if the constitution, aims and objects of the educational institution, which has enabled it to obtain minority status has subsequently been amended in such a way that it no longer reflects the purpose or character of a Minority Educational Institution;

(b) if, on verification of the records during the inspection or investigation, it is found that the Minority Educational Institution has failed to admit students belonging to the minority community in the institution as per rules and prescribed percentage governing admissions during any academic year.

12D. (1) The Commission shall have the power to investigate into the complaints relating to deprivation of the educational rights of minorities.

Power of Commission to investigate matters relating to deprivation of educational rights of minorities

(2) The Commission may, for the purpose of conducting any investigation pertaining to a complaint under this Act, utilise the service of any officer of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(3) For the purpose of investigation under sub-section (1), the officer whose services are utilised may, subject to the direction and control of the Commission,—

(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document;

(c) requisition any public record or copy thereof from any office.

(4) The officer whose services are utilised under sub-section (2), shall investigate into any matter entrusted to it by the Commission and submit a report thereon to it within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (4), and for this purpose the Commission may make such further inquiry as it may think fit.

12E. (1) The Commission, while enquiring into the complaints of violation or deprivation of education rights of minorities shall call for information or report from the Central Government or any State Government or any other authority or organisation subordinate thereto, within such time as may be specified by it:

Power of Commission to call for information etc.

Provided that,—

(a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint;

(b) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required, or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly.

(2) Where the inquiry establishes violation or deprivation of the educational rights of the minorities by a public servant, the Commission may recommend to the concerned Government or authority, the initiation of disciplinary proceedings or such other action against the concerned person or persons as may be deemed fit.

(3) The Commission shall send a copy of the inquiry report, together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken, or proposed to be taken thereon, to the Commission.

(4) The Commission shall publish its inquiry report and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

Bar of jurisdiction

12F. No court (except the Supreme Court and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) shall entertain any suit, application or other proceedings in respect of any order made under this Chapter.’

Omission
of section 18.

7. Section 18 of the Principal Act shall be omitted.

Amendment
of section 24.

8. In Section 24 of the Principal Act, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

“(aa) the forms in which appeal under sub-section (3) of section 12A and sub-Section (3) of Section 12B, shall be made;”.

Omission
of Schedule.

9. The Schedule to the principal Act shall be omitted.

Repeal of
Ordinance 1 of
2006 and saving.

10. (1) The National Commission for Minority Educational Institutions (Amendment) Ordinance, 2006, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.